

**\*\*E-filed 12/22/10\*\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MICHAEL COOK,

**No. C 10-0907 RS**

Plaintiff,

**ORDER DISPOSING OF PENDING  
MOTIONS AND DISMISSING  
ACTION**

v.

UNITED STATES DEPARTMENT OF  
THE TREASURY,

Defendant.

This is one of approximately a dozen cases that plaintiff Michael Cook has filed against United States government defendants over the last several years either regarding his claim that the Social Security Administration (“SSA”) has failed to reissue to him certain Supplemental Security Income (“SSI”) checks that allegedly were mailed to him, but that he contends he never received, or asserting a claim that the SSA has not provided him certain medical records that he requested. The parties are familiar with the history of those actions, and it will not be recounted here.

Defendant moves to dismiss this case, which relates to the SSI checks, on grounds that, among other things, Cook has still not exhausted his administrative remedies. For reasons explained more fully in orders dismissing Cook’s prior actions relating to these checks, defendant’s contention is correct, and the Court lacks jurisdiction to hear this matter until and unless the SSA issues a final determination. See dismissal orders in C 06-5950 RS, C 07-5085 RS, C 07-06232 RS, C 07-06068 RS, and C 09-2466 RS. In late 2009, the SSA Appeals Council vacated the

1 Administrative Law Judge's decision that Cook was not entitled to any of the checks in dispute and  
2 remanded the matter for further proceedings. The SSA advised Cook that the "average processing  
3 time for the Sacramento hearing office is 423 days." Accordingly, while Cook's frustration with  
4 the length of time this process has taken may be understandable, the present action was premature  
5 when filed and remains so as of this date. The motion to dismiss is therefore granted.

6 Defendant also moves to impose a pre-filing screening order against Cook, to preclude him  
7 from continuing to initiate new cases arising from these same matters. The Court denied without  
8 prejudice a prior motion to declare Cook a vexatious litigant, noting that, among other things, not all  
9 of his claims in these cases could fairly be characterized as wholly frivolous, given that he has  
10 obtained some relief, both from this Court and in the underlying administrative proceedings.  
11 Although defendant's renewed motion makes a more complete evidentiary showing than did its  
12 prior motion, no pre-filing screening order will be imposed at this juncture. Cook has not initiated  
13 any new actions regarding these matters since January 13, 2010, when both this case and Case No.  
14 C 10-1806 RS (relating to his medical records) were filed in Santa Clara County Superior Court.  
15 Cook appears to have believed that these two cases differed enough from his prior actions in legal  
16 theory or claims that they were not within this Court's prior instructions to him not file any new  
17 cases either here or in the state courts regarding these same matters. While that belief may not have  
18 been reasonable, Cook appears to have generally attempted to comply with this Court's directions  
19 not to continue multiplying the litigation.<sup>1</sup> Indeed, Cook's most recent filing, in which he  
20 complains of the continued delay in resolution of the administrative proceeding, was labeled with  
21 this case number and was filed herein (despite being incorrectly captioned as a "complaint").

22 Cook is hereby advised, however, that if he files any further new actions here or in other  
23 courts that in any manner relate to his claim for the SSI checks or his attempt to obtain medical  
24 records from the SSA, the Court will impose a pre-filing screening order on its own motion, absent  
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26 <sup>1</sup> As noted in a prior order, some of the separate case files were opened erroneously, when Cook  
27 had in fact attempted to comply with a then-existing order (since vacated) that he make all his  
28 filings under the C 07-5085 RS case number.

1 extenuating circumstances. Cook may only file a new action regarding the SSI checks after there  
2 has been a final decision in the administrative proceedings.

3 Finally, to the extent that any of Cook's filings in this action have been labeled as motions,  
4 or seek affirmative relief, he has failed to show that any such relief is warranted, and they are  
5 denied. The Clerk shall close the file.

6  
7 IT IS SO ORDERED.

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9 Dated: 12/22/2010



10 RICHARD SEEBORG  
11 UNITED STATES DISTRICT JUDGE  
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**THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY  
PROVIDED TO:**

James A. Scharf james.scharf@usdoj.gov, mimi.lam@usdoj.gov

**AND A HARD COPY OF THIS ORDER WAS MAILED TO:**

**Michael Cook**  
T-79529  
A-2-212  
Pelican Bay State Prison  
Post Office Box 7500  
Crescent City, CA 95532

DATED: 12/22/2010

/s/ Chambers Staff

Chambers of Magistrate Judge Richard Seeborg